

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**BRENDA CORLEY, BILLY JO BELL,
PATTI SHOEMAKER, CORINA WEST,
PHIL WISEMAN, MARGUERITE
BARTHOLOW, AND GINA NORRIS,**

PLAINTIFFS,

v.

**CLEANINGSERVICES.COM, LLC, AND
SUSAN BROWN,**

DEFENDANTS.

CIVIL ACTION NO. 1:19-cv-34

(HON. Irene M. Keeley)

DEFENDANTS' NOTICE OF REMOVAL

I. Introduction

1. Defendants, CleaningServices.com, LLC and Susan Brown (collectively “Defendatnts”), pursuant to the applicable FEDERAL RULES OF CIVIL PROCEDURE and 28 U.S.C. §§ 1441 & 1446, file this Notice of Removal; and remove the action, *Brenda Corley, Billy Jo Bell, Patti Shoemaker, Corina West, Phil Wiseman, Marguerite Bartholow, and Gina Norris v. CleaningServices.com, LLC, and Susan Brown*, Case No. CC-24-2019-C-20, in the Circuit Court of Marion County, West Virginia, to the United States District Court for the Northern District of West Virginia. Removal of this action is based on the following:

II. Exhibits

2. Attached to this notice of removal are the following documents:

Exhibit	Description of Exhibit
1	Docket sheet from the state court proceeding being removed, Case No. CC-24-2019-C-20.
2	All documents served on Defendant Susan Brown on February 7, 2019, which include all “process, pleadings, and orders served upon” her. 28 U.S.C. § 1446(a). This includes [Plaintiffs’] Complaint.

Exhibit	Description of Exhibit
3	All documents served on Defendant CleaningServices.com, LLC on February 11, 2019 (via receipt by the West Virginia Secretary of State), which include all “process, pleadings, and orders served upon” the company. 28 U.S.C. § 1446(a). This includes [Plaintiffs’] Complaint.
4	Notice of Filing Notice of Removal, filed this same day in the State Court proceeding, Case No. CC-24-2019-C-20.

3. These first three Exhibits above contain all documents in the State Court’s file.

III. Background

4. The Plaintiffs filed their Complaint in this case in the Circuit Court of Marion County, West Virginia, on February 5, 2019. A copy of the Complaint filed by Plaintiffs in the state court action, Case No. CC-24-2019-C-20, is attached in both Exhibits 2 and 3.

5. The Circuit Court issued summons on February 5, 2019 for both Defendants. The Complaint, summons, and related documents were served on Defendant Susan Brown on February 7, 2019 (Exhibit 2), and on Defendant CleaningServices.com, LLC on February 11, 2019 (Exhibit 3). Exhibits 2 and 3 contain all of the “process, pleadings, and orders served upon” each of the Defendants. 28 U.S.C. § 1446(a).

6. This Notice of Removal is being filed within 30 days from service of the Complaint in the above matter.

- a. Defendant Susan Brown was served on February 7, 2019.
 - b. Defendant CleaningServices.com, LLC was served through the West Virginia Secretary of State on February 11, 2019 (that is the date on which the secretary of State received the certified mail package from the Circuit Clerk).
7. The Notice of Removal is, therefore, timely filed under 28 U.S.C. §1446(b).

IV. Venue

8. The Circuit Court of Marion County, West Virginia, in which Plaintiffs' Complaint was filed, is within this Court's District. Therefore, the action is properly removable to this Court pursuant to 28 U.S.C. §1446(b).

V. Removal is Based on Federal Question Jurisdiction

9. This action is within the original jurisdiction of this Court pursuant to 28 U.S.C. §1331, because Plaintiffs' civil action, in Counts I and III, arises under federal statute, the Fair Labor Standards Act ("FLSA")

10. Specifically, Plaintiffs assert that they were not paid wages for all hours worked under the FLSA (Count I); and one of the Plaintiffs (Count III) alleges retaliation under the FLSA. *See* Exhibit 2, Complaint, Count I entitled "Claim of all Plaintiff for Unpaid Wages Under the Fair Labor Standards Act", at pages 7-8, ¶¶ 37-49; and Count III entitled "Claim of Brenda Corley for Unlawful Retaliation in Violation of the Fair Labor Standards Act", at pages 10-11, ¶¶ 60-72. The purported factual allegations and Counts I & III arise under the FLSA, 29 U.S.C. §§ 206 & 207 (wage provisions) and § 215(a)(3) (discrimination provision).

11. Plaintiffs' remaining counts purportedly arise under West Virginia law. *See* Count II (West Virginia Wage Payment and Collection Act); Count IV (termination allegedly in violation of substantial West Virginia public policy); and Count V (alleged sexual harassment under West Virginia Human Rights Act).

12. Plaintiffs' federal and state law claims in the Complaint form part of the same case or controversy so that this Court may exercise supplemental jurisdiction over Plaintiffs' claims under West Virginia law, 28 U.S.C. §1367(a); 28 U.S.C. §1441(c).

VI. Compliance with Procedural Requirements

13. The Notice of Removal has been filed within 30 days after service of Plaintiffs' Complaint. Accordingly, this Notice of Removal is timely filed pursuant to 28 U.S.C. §1446(b). This removal is submitted on behalf of both Defendants.

14. Copies of all process, pleadings, orders and other papers or exhibits of every kind served upon Defendants and in the file in the Circuit Court of Marion County, West Virginia, are attached to this Notice of Removal as Exhibits 2 and 3, as required by 28 U.S.C. §1446(a).

15. Upon filing this Notice of Removal, Defendants will provide a written notification (by service of this Notice of Removal) to Plaintiffs and will file a Notice of Filing of Notice of Removal with the Circuit Clerk of the Circuit Court of Marion County, West Virginia, as required by 28 U.S.C. §1446(d). A true and correct copy of the Notice of Filing of Notice of Removal (to be filed with the Circuit Court of Marion County) is attached as Exhibit 4.

16. Defendants file this Notice without waiving any defense to the claims asserted by Plaintiff or conceding that Plaintiff has stated claims upon which relief can be granted.

VII. Prayer

17. WHEREFORE, Defendants, ClearingServices.com, LLC and Susan Brown, respectfully request that the United States District Court for the Northern District of West Virginia:

- a. accept the removal of this action from the Circuit Court of Marion County, West Virginia, and
- b. direct that State Court to have no further jurisdiction over this matter unless this case is remanded.

Respectfully submitted

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LLC; and Susan Brown*

CERTIFICATE OF SERVICE

I certify that on March 7, 2019, I electronically filed the foregoing Defendants' Notice of Removal with the District Clerk using the CM/ECF system pursuant to N.D. W. VA. L.R. GEN. P. 5.01(a) & 5.06(b), which will serve email notification of such filing to the following, and I will also fax this document to the following:

Served by CM/ECF email and by fax:

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